

ST 02-0069-GIL 03/28/2002 DELIVERY CHARGES

As a technical proposition, handling charges represent a retailer's cost of doing business, and are consequently always included in gross charges subject to tax. See, 86 Ill. Adm. Code 130.410. (This is a GIL).

March 28, 2002

Dear Xxxxx:

This letter is in response to your letter dated December 19, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Please accept this request for a taxability determination based on the Sales and Use Tax laws of Illinois, for transportation charges associated with the sale of tangible personal property.

*Transaction Details:*

An Illinois customer places an order for merchandise with an out-of-state catalog center. The customer elects to have the order shipped to an in-state store. At the time the order is placed, the selling price of the merchandise plus transportation charges are billed to the customer's credit card. Title to goods passes to the customer prior to shipment. Transportation is separately stated and provided by a common carrier. Merchandise ships from an out-of-state distribution center to an in-state store. At the store the customer presents identification and then picks up their order.

*Question:*

Is the transportation charge taxable in the above scenario?

If more information is required, you may contact me. You may also send email correspondence.

As a technical proposition, handling charges represent a retailer's cost of doing business, and are consequently always included in gross charges subject to tax. See, 86 Ill. Adm. Code 130.410. However, such charges are often stated in combination with shipping charges. In this case, charges designated as "shipping and handling," as well as delivery or transportation charges in general, are not taxable if it can be shown that they are both separately contracted for and that such charges are actually reflective of the costs of shipping. To the extent that shipping and handling charges exceed

the costs of shipping, the charges are subject to tax. As indicated above, charges termed "delivery" or "transportation" charges follow the same principle.

The best evidence that shipping and handling or delivery charges have been contracted for separately by purchasers and retailers are separate contracts for shipping and handling or delivery. However, documentation that demonstrates that purchasers had the option of taking delivery of the property, at the sellers' location for the agreed purchase price, plus an ascertained or ascertainable delivery charge, will suffice. If retailers charge customers shipping and handling or delivery charges that exceed the retailers' cost of providing the transportation or delivery, the excess amount is subject to tax.

We could not determine if the transactions you described are phone orders made from a catalog. If that is the case, and if the catalog order form requires a separate charge for delivery, the charges are deemed to be separately agreed to and, therefore, nontaxable. However, as indicated above, such charges must also be reflective of the costs of shipping. To the extent they exceed such costs, the excess charges are taxable.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk  
Enc.